

Authorized Workers

Immigration and Nationality Act (8 USC 1101 as amended) Section 274A

Who is Covered

The Immigration and Nationality Act (INA) includes provisions addressing employment eligibility, employment verification, and nondiscrimination. These provisions apply to all employers.

Basic Provisions/Requirements

Under the INA, employers may hire only persons who may legally work in the United States (*i.e.*, citizens and nationals of the U.S. and aliens authorized to work in the U.S.). The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). Employers must keep each I-9 on file for at least three years, or one year after employment ends, whichever is longer.

Employee Rights

The INA protects U.S. citizens and aliens authorized to accept employment in the U.S. from discrimination in hiring or discharge on the basis of national origin and citizenship status.

Compliance Assistance Available

More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained from local offices of the Employment Standards Administration's Wage and Hour Division (www.wagehour.dol.gov or 1-866-4USWAGE) and the Office of Federal Contract Compliance Programs (www.dol.gov/esa/ofccp or 1-866-4-USA-DOL).

Penalties/Sanctions

Employers who fail to complete and/or retain the I-9 forms are subject to penalties. The Department of Homeland Security (DHS) (www.dhs.gov) enforces the INA requirements on verification of employment eligibility. The Department of Justice's (DOJ) Office of Special Counsel for Immigration Related Unfair Employment Practices (www.justice.gov/crt/activity.html#osc) enforces the anti-discrimination provisions. As part of their ongoing enforcement efforts, the ESA's Wage and Hour Division and Office of Federal Contract Compliance Programs conduct inspections of the I-9 forms. They report their findings to DHS and to DOJ where disparate treatment or unauthorized employment is apparent.

Relation to State, Local, and Other Federal Laws

Not applicable.

The Employment Law Guide is offered as a public resource. It does not create new legal obligations and it is not a substitute for the U.S. Code, Federal Register, and Code of Federal Regulations as the official sources of applicable law. Every effort has been made to ensure that the information provided is complete and accurate as of the time of publication, and this will continue. Later versions of this Guide will be offered at www.dol.gov/compliance or by calling our Toll-Free Help Line at 1-866-4-USA-DOL (1-866-487-2365).